

Internal Revenue Service, Treasury

§ 31.3402(o)-2

Example 3. Assume the facts are the same as in *Example 1* except that for 2005 A has taxable income of \$8,000, income tax liability of \$839, and income tax withheld of \$1,195. Although A received a refund of \$356 due to income tax withholding of \$1,195, he may not certify on his withholding exemption certificate that he incurred no liability for income tax imposed by subtitle A for 2005.

[T.D. 9276, 71 FR 42057, July 25, 2006]

§ 31.3402(o)-1 Extension of withholding to supplemental unemployment compensation benefits.

(a) *In general.* Withholding of income tax is required under section 3402(o) with respect to payments of supplemental unemployment compensation benefits made after December 31, 1970, which are treated under paragraph (b)(14) of § 31.3401(a)-1 as if they were wages.

(b) *Withholding exemption certificates.* For purposes of section 3402(f) (2) and (3) and the regulations thereunder (relating to withholding exemption certificates), in the case of supplemental unemployment compensation benefits an employment relationship shall be considered to commence with either the date on which such benefits begin to accrue or January 1, 1971, whichever is later, and the withholding exemption certificate furnished the employer with respect to such commencement of employment shall be considered the first certificate furnished the employer. The withholding exemption certificate furnished by the employee to his former employer (with whom his employment has been involuntarily terminated, within the meaning of paragraph (b)(14)(ii) of § 31.3401(a)-1) shall be treated as meeting the requirements of section 3402(f)(2)(A) and the regulations thereunder if such former employer furnishes such certificate to the employee's current employer, as defined in paragraph (g) of § 31.340(d)-1, or if such former employer is the agent of such current employer with respect to the employee's withholding exemption certificate. However, the preceding sentence shall not be applicable if such employee furnishes a new withholding exemption certificate to such current employer (or his agent), provided that such withholding exemption certificate meets the requirements of section 3402(f)(2)(A) and the regulations there-

under. See the definitions of payroll period in paragraph (c) of § 31.3401(b)-1 and of employee in paragraph (g) of § 31.3401(c)-1.

[T.D. 7068, 35 FR 17329, Nov. 11, 1970, as amended by T.D. 7803, 47 FR 3546, Jan. 26, 1982]

§ 31.3402(o)-2 Extension of withholding to annuity payments if requested by payee.

(a) *In general.* Under section 3402(o) of the Internal Revenue Code of 1954 and this section, the payee (as defined in paragraph (g)(2) of this section) of an annuity (as defined in paragraph (g)(1) of this section) may request the payor (as defined in paragraph (g)(3) of this section) of the annuity to withhold income tax with respect to payments of the annuity made after December 31, 1970. If such a request is made, the payor shall deduct and withhold as requested.

(b) *Manner of making request.* A payee who wishes a payor to deduct and withhold income tax from annuity payments shall file a request with the payor to deduct and withhold a specific whole dollar amount from each annuity payment. Such specific dollar amount requested shall be at least \$5 per month and shall not reduce the net amount of any annuity payment received by the payee below \$10. The request shall be made on Form W-4P (annuitant's withholding exemption certificate and request) in accordance with the instructions applicable thereto, and shall set forth fully and clearly the data therein called for. In lieu of Form W-4P, payors may prepare and use a form the provisions of which are identical with those of Form W-4P.

For the requirements relating to Form W-4P with respect to qualified State individual income taxes, see paragraph (d)(3)(i) of § 301.6361-1 of this chapter (Regulations on Procedure and Administration).

(c) *When request takes effect.* Upon receipt of a request under this section the payor of the annuity with respect to which such request was made shall deduct and withhold the amount specified in such request from each annuity payment commencing with the first annuity payment made on or after the date which occurs—